

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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RIO TINTO PLC,

Plaintiff,

:

14 Civ. 3042 (RMB)(AJP)

-against-

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ORDER

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VALE S.A., et al.,

:

Defendants.
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ANDREW J. PECK, United States Magistrate Judge:

BSGR's March 10, 2016 letter application (Dkt. No. 441) to modify the Protective Order, referred by Judge Berman on April 8, 2016 (Dkt. No. 445), is DENIED.

This request is different from Vale's request concerning certain Thiam documents, for several reasons:


First, while all the defendants sought a provision in the proposed Protective Order allowing limited use in other proceedings, i.e., the London Arbitration (Dkt. No. 81, ¶ VI, defense proposal), Rio Tinto's proposed paragraph would not have allowed any use in the London Arbitration (Dkt. No. 81, ¶ VI, plaintiff proposal). All defendants were on notice when submitting the Protective Order that Rio Tinto opposed use in any way in the London Arbitration, and defendants agreed that confidential information could not be used directly in the London Arbitration (while information derived could be). Thus, for BSGR to use Rio Tinto produced documents in the London Arbitration (to which Rio Tinto is not a party) directly conflicts with the terms of the Protective Order.

Secondly, unlike as to Thiam, there have been no changed circumstances justifying modification of the Protective Order. Rio Tinto has not interjected itself into the London Arbitration, as Thiam did, which justified the modification as to his information. .

For these reasons, in the exercise of the Court's discretion, BSGR's March 10, 2016 application (Dkt. No. 441) is DENIED.

SO ORDERED.

Dated: New York, New York
April 18, 2016



Andrew J. Peck
United States Magistrate Judge

Copies **by ECF** to: All Counsel
Judge Berman